UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,019	01/20/2000	Yuji Kumakura	1614.1024	3839

21171	7590	12/12/2003	

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EXAMINER
KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
2122	19

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application	Applicant(s)
Advisory Action	09/488,019	KUMAKURA, YUJI
	Examiner	**Art Unit**	
	Chuck O Kendall	2122	

--The MAILING DATE f this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1-27*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____.

Continuation of 5. does NOT place the application in condition for allowance because: Regarding claims 1, 10 and 19, Applicant argues in Response dated 11/18/2003 on page 2, 2nd paragraph for a lack of motivation to combine Stupek and Kullick. Examiner believes that this combination is compliant and does provide a suggestion and motivation for combing references. Applicant's claims which reads rather broadly, discloses in claims 1,10 & 19, limitations for retrieving parts, moving parts, copying parts and deleting parts. In view of Applicants specification and drawings, the limitations are drawn towards an installation process. Both Stupek, which is entitled (Automati Computer Upgrading) and Kullick (Method and apparatus for automatic software replacement) deal with an installations process, includin upgrading/updating components which include the retrieval,moving, copying, and deletion of parts inorder to process and install or update/upgrade. Both Stupek and Kullick are analogus art and perform similar functions to carry out program installation and/or modification. The primary reference Stupek is used to map Applicants claims short of the limitation of deleting the program. However, Examiner has provided Kullick as the secondary reference to provide that functionality. One of skill in the art, would make that combination because during upgrading, deleting files being upgraded prevents conflict and incompatibitly issues as well as duplicate dlls or other files which may cause systems stalling. Stupek, does mention erasing a staging area after upgrading (Stupek, Col. 6:1-5). Examiner believes that this provides a suggestion for replacing or deleting the file program as noted in Kullick. Its also a very well known practice in the art to replace,delete, remove, or overwrite files during installing as well as copy,move and retrieve file parts .

ANTONY NGUYEN-BA
PRIMARY EXAMINER